

REMARKS

Claims 75-82, 85-114, and 145-168 remain pending in this application. Claim 168 has been amended to correct a typographical error. Applicant requests entry of this amendment.

Allowable Subject Matter

Although not specifically addressed, it appears that the Examiner was withdrawn the allowability of claim 83, which was canceled and rewritten as claim 164.

Section 102 Rejections

The Examiner continues to reject the pending independent claims under 35 U.S.C. § 102(e) based on the previously cited Codignotto reference, U.S. Patent No. 7,032,030.¹

As an initial matter, Applicant notes that the Examiner in the present Office Action, suggest that “the merits” of Codignotto were “not argued.” *See* Office Action at 2. While this statement is somewhat unclear, Applicant wishes to emphasize that Codignotto was argued, both in the telephone conference of February 21, 2008, and the in the prior response, in which Applicant incorporated by reference its prior remarks regarding Codignotto (in the Office Action response of July 23, 2007). Further, in the most recent response, Applicant stated as follows: “In a telephone conference with the Examiner of February 21, 2008, the undersigned explained Applicant’s position that Codignotto did not teach at least the “associating” step of (for example) claim 75. Applicant maintains that position.” *See* Office Action Response of April 14, 2008, at 11. As set forth below, Applicant continues to disagree that Codignotto anticipates any of the pending claims.

From the Examiner’s citation to col. 23 of Codignotto, *see* Office Action at pp. 2-3 (rejection of claim 75), it appears that the Examiner is attempting to equate a “webpage” in Codignotto with the “image file” recited, for example, in claim 75. Codignotto discloses:

¹ Nothing in this or any previous response should be taken as an admission that Codignotto actually constitutes prior art to the present claims under 35 U.S.C. § 102(c).

Typically, a potential reviewer of the message will use a web browser type software program or device to view the webpages containing the published message. Webpages typically contain a number of references within it. References are typically an “inline” type or “link” type. Inline references are typically used to display the actual image or other data within the webpage itself when the webpage is displayed to the reviewer. For example, if an inline reference is made to an audio file, the audio file will automatically start playing to the reviewer of the webpage when the webpage is displayed. The reviewer does not have to select the link to start playback.

See Codignotto, col. 23, lines 1-12. This passage thus teaches that “webpages” may include an “inline reference” or a “link” to “data” such as an “image” or “audio file.” As one example, this passage discloses that “if an inline reference is made to an audio file, the audio file will automatically start playing to the reviewer of the webpage when the webpage is displayed.”

Claim 75, on the other hand, recites in part:

associating the recorded audio file with an image file in a manner that makes the recorded audio file available for playback to a given user when the given user subsequently selects the image file via input received over the network.

Claim 75 thus refers to “associating” an “audio file with an image file.” While the passage of Codignotto cited by the Examiner refers to an “audio file,” the passage does not teach or suggest “associating” this audio file with an “image file.” Although the Examiner provides little beyond a cite to various portions of Codignotto in the Office Action, presumably the Examiner is suggesting that Codignotto’s “webpage,” which might include an “inline reference” to an “audio file,” is the “image file” of claim 75.

To the extent this is the Examiner’s position, Applicant strongly disagrees. Applicant submits that it is not reasonable to interpret the phrase “image file” in Applicant’s claims to refer a “webpage.” Applicant notes that terms in a claim are to be given their broadest reasonable construction that is consistent with the corresponding specification as it would be interpreted by one of ordinary skill in the art. See MPEP § 2111. The term “image file” is understood by those skilled in the art to refer to files corresponding to, e.g., photographs. See, e.g., ¶ [0020] of U.S. Publ. No. 2002/0067805 (Applicant’s published specification); dependent claim 148. Thus the “image file” of Applicant’s claims might be, for example, a .jpg file. This construction of “image file” is consistent with the use of the term “image” in Applicant’s specification. See *id.*

at [0002] (“The internet is primarily a visually based system, allowing a user to graphically interact with an image or series of images on a display screen.”); [0028] (“A conventional mouse 70 is coupled to the keyboard 68 or computer system 20, directly, for manipulating graphic images on the display 66 as a cursor control device in a conventional manner. The display 66 displays video and graphical images generated by the computer system 20. The audio playback speakers 72 and 74 allow playback of audio information from the computer system 20.”). Applicant recognizes that a webpage may include or reference an “image file,” but inclusion of, for example, an “audio file” in a “webpage” does not constitute “associating” an “audio file with an image file” as recited in claim 75 (“associating the recorded audio file with an image file *in a manner that makes the recorded audio file available for playback to a given user when the given user subsequently selects the image file via input received over the network*”).

Applicant submits that the very passage of Codignotto cited by the Examiner is contrary to the Examiner’s (apparent) position. This passage distinguishes between “webpages” on one hand, and “references” within the webpage on the other hand, where the references may be to an “image” or an “audio file.” *See* Codignotto, col. 23, lines 3-4. Applicant submits that this passage indicates that one of ordinary skill in the art would not use the term “image file” to refer to a “webpage.”

Given this deficiency, Applicant submits that Codignotto does not teach each and every limitation of, for example, claim 75. For at least this reason, Applicant respectfully requests removal of the § 102 rejection of this claim. Applicant submits that the remaining independent claims are not anticipated by Codignotto for at least reasons similar to those provided in support of claim 75.

CONCLUSION:

Applicant respectfully submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/5957-02200/DMM.

Respectfully submitted,

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